

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Matthew J. Hierholzer on September 9, 2010.

The application has been amended as follows:

In the claims:

Claims 1, 43 and 44, after "homogenous solution" inserted "wherein the solution is maintained below saturation".

Claims 1, 43 and 44, after "to form particles of the substance" deleted --, and wherein further the solution is maintained below saturation--.

The following is an examiner's statement of reasons for allowance:

As explained in the rejection mailed February 18, 2010, Kerč et al. (1999) henceforth **Kerč** in combination with Kropf et al. (US 6,316,030 B1), henceforth **Kropf**, Jung et al. (2001), henceforth **Jung**, and Weidner et al. (US 6,056,791), henceforth **Weidner** teach most the limitations recited by independent **claims 1, 43 and 44**.

The allowable feature which these references do not teach is the step of maintaining the equilibrated, homogeneous solution of the dense gas in the molten

substance below saturation. Kerč's method relies on taking a gas-saturated solution (page 34 left column paragraph 4) and depressurizing it such that the solution becomes supersaturated, the gas precipitates out and the gas evaporates (page 35 left column paragraph 1). Neither the cited references nor the related prior art of record teaches or suggests a rationale for maintaining the solution below saturation before it is depressurized.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magali P. Slawski whose telephone number is (571) 270-3960. The examiner can normally be reached on Monday through Thursday 9:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer K. Michener can be reached on (571) 272-1424. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer K. Michener/
Supervisory Patent Examiner, Art Unit 1795

/Magali P. Slawski/
Examiner, Art Unit 1795